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1 PROFESSOR GOULD - CROSS-EXAMINATION  
2 Do you see that?

3 A No, not yet. Again, it's not  
4 numbered, but --

5 UNKNOWN SPEAKER: I'm sorry,  
6 what --

7 DEAN WILLIAMS: I'm not sure where  
8 you are.

9 Q I just counted the pages. I think  
10 I counted one, two, three.

11 UNKNOWN SPEAKER: Is it the red  
12 highlighting.

13 MS. TSHUDY: No. It's at the very  
14 bottom and there's Roman Numeral 3,  
15 right there.

16 UNKNOWN SPEAKER: Roman Numeral 3.

17 PROFESSOR GOULD: Oh, I see.

18 DEAN WILLIAMS: I think I actually  
19 have this, so hold on one second. Maybe  
20 it will be easier if I do it this way.

21 And Ms. Tshudy, you can show me if  
22 I'm looking at the right thing. Right  
23 there? Trade Secret -- there you go.

24 MS. TSHUDY: Yeah. So  
25 originally -- this is actually an

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2 accident, but I had sent my, like,  
3 outline, kind of, basis of what I was  
4 doing to Professor Gould -- and somehow  
5 it was actually, like, the form where  
6 you can edit it and he can see it and so  
7 we actually had this conversation about  
8 how that's really cool. But so this  
9 was -- so what I had written was just  
10 the topic and all the notes afterwards  
11 were exactly what he was speaking about.  
12 And that was actually what nearly all of  
13 our discussion was on.

14 So I didn't come up with any of  
15 those discovery issues or any of that in  
16 my outline. That was all stuff that --  
17 I'm not saying this is a bad thing -- he  
18 just seemed super fascinated on and he  
19 said that that would be, like, overly  
20 emphasized. And I'm the kind of person  
21 that if I hear a professor, you know,  
22 really advocate for that, that will,  
23 like, make me change my topic, if that's  
24 really what's going to interest him.  
25 And your kind of wondering what

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2 professors would think of it.

3 BY MS. TSHUDY:

4 Q But, Professor Gould, my question  
5 for you is: Do you not remember that at  
6 all? Because I literally took the notes and  
7 you're, like, Oh, I can see you editing it  
8 right here.

9 A Yeah.

10 Q And it was, like, cool.

11 A Yeah. I don't remember these  
12 notes. And I don't know how much was  
13 written during the call and how much after.  
14 Obviously, it's not my control.

15 What I do remember is I remember  
16 discussing what I thought was very  
17 interesting, focusing on manufacturing  
18 processes and making the biomolecules. And  
19 I recall that you had, I think, an undergrad  
20 in biochemistry, so I thought that was  
21 particularly good -- again, it was a topic  
22 Ms. Tshudy chose, but I thought it was a  
23 particularly good topic for biochemistry  
24 major.

25 And I do recall, on our calls, and

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1 PROFESSOR GOULD - CROSS-EXAMINATION  
2 you spoke about it a lot in your  
3 presentation, was the risks when you have  
4 the strategy of relying on trade secret  
5 protection, the risks in litigation. And I  
6 remember, at a couple of points, which call  
7 or class -- talking about how in litigation,  
8 they often have protective orders to allow  
9 for trade secret information to come in but  
10 not be available to the public. These are  
11 some of the key things I remember from our  
12 discussions.

13 Q Did you look into searching, like,  
14 any other documents or anything for any of  
15 the things you're suspicious of? Did you do  
16 a Google search or LexusNexus search or Lex  
17 Law search or any of that for anything or  
18 was it just you found this paper and you  
19 just noted particular similarities?

20 A Just to clarify, I did the  
21 searching, sort of, out of curiosity, and  
22 because one thing I was concerned about in  
23 the strategy is, what would FDA do? And so  
24 this was a curiosity -- although pertaining  
25 to your paper, I had not yet suspected any

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1 PROFESSOR GOULD - CROSS-EXAMINATION  
2 copying. Is that your question?

3 Q Yes -- well, no. Even after you  
4 suspected it, though, like, did you check to  
5 see if other papers also said, like, the  
6 same thing? Does that make sense?

7 Like, especially when it comes to  
8 unique wording or something like that? Did  
9 you do a search to check cases and other  
10 papers and stuff -- or even, like, the stuff  
11 that you felt were unique conclusions? Did  
12 you do a search to see if that's a unique  
13 conclusion or was it just --

14 A I don't recall.

15 Q -- something you hadn't  
16 experienced before -- sorry.

17 A Once I saw Ms. Roger's papers and  
18 saw the similarities and the copying, I  
19 don't recall doing additional searches to  
20 see if others use distinct wording like  
21 "hungry eyes" and conclusions like that. I  
22 don't recall doing that.

23 Q Do you recall in our last phone  
24 conversation that the only real question I  
25 had was clarifying if we were supposed to

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1 PROFESSOR GOULD - CROSS-EXAMINATION  
2 structure our resources exactly as you had  
3 given in the sample paper?

4 Do you remember that? I asked  
5 about -- because instead of just like a list  
6 of resources or references, it was using  
7 subscripts and I asked, to clarify, if  
8 that's exactly how we needed our paper to be  
9 done. So I was concerned about my ability  
10 to create, like, a table of contents and  
11 stuff. Do you remember that?

12 A I don't recall that aspect of that  
13 phone call.

14 Q Okay.

15 A Though I know I tell the students,  
16 generally, that I am pretty liberal whether  
17 you want to do footnotes or end notes, that  
18 kind of thing.

19 Q Yeah, I agree with that. Yeah,  
20 remember that part.

21 Were they given the sample paper  
22 at all?

23 DEAN WILLIAMS: I did not provide  
24 the sample paper.

25 MS. TSHUDY: Okay.

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2 DEAN WILLIAMS: It was just a  
3 sample paper.

4 MS. TSHUDY: It was a format that  
5 I had never used before, so that's why I  
6 was mentioning it, kind of thing.  
7 Normally I can list resources.

8 PROFESSOR GOULD: And just to  
9 clarify, I did not have a concern or  
10 complaint that Ms. Tshudy did end notes  
11 instead of footnotes. That was fine.

12 BY MS. TSHUDY:

13 Q Sorry, one moment.

14 In regards to sort of the first  
15 half of my paper, was that cases that you  
16 knew that we went over and sort of discussed  
17 or at least were introduced to during class  
18 and sort of already had -- especially  
19 Momena and stuff --

20 A Yes.

21 Q -- that's like common class  
22 coursework.

23 A Yeah. I mean, I found a big  
24 focus, especially this spring into the  
25 subject matter of testing methods for FDA as

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1 Proceedings  
2 opposed to manufacturing processes, that was  
3 from Momena. And then I remember you cited  
4 and discussed the Pfizer-Apotex Amlodipine  
5 case, which I knew very well and we covered  
6 in class. And you also put in your paper  
7 FTC v. Actavis, which we also -- that's in  
8 our text and we also covered in class.

9 MS. TSHUDY: Okay. I think that's  
10 all the questions I have.

11 PROFESSOR BUTLER: Any more  
12 questions for Professor Gould from this  
13 panel?

14 UNKNOWN SPEAKER: Oh, not for  
15 Professor Gould, but for Ms. Tshudy.

16 PROFESSOR BUTLER: Okay, let's get  
17 Professor Gould first.

18 UNKNOWN SPEAKER: Had you ever had  
19 any statement with either Ms. Tshudy or  
20 any other student that they would not  
21 have to cite to a resource for some  
22 reason?

23 PROFESSOR GOULD: No. I mean, I'm  
24 trying to understand.

25 UNKNOWN SPEAKER: If, for example,

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2 information that they were citing to was  
3 widely known in the community, would  
4 that be a resource that they would not  
5 have to cite to for some reason?

6 PROFESSOR GOULD: Oh, I see. It's  
7 always a judgment call. I did not have  
8 that specific discussion with my  
9 students.

10 UNKNOWN SPEAKER: Okay.  
11 PROFESSOR GOULD: I sort of  
12 trusted that second or third year law  
13 students, they would have some idea of  
14 that. I don't remember having that  
15 discussion.

16 UNKNOWN SPEAKER: So then to, I  
17 guess, pull that out a little bit. Is  
18 the information and the analysis that  
19 you saw in Ms. Tshudy's paper one that  
20 is so broadly known within the  
21 community -- and I will admit I know  
22 nothing about patents, pharmaceuticals,  
23 trade secrets. So if I'm asking a  
24 question that doesn't make sense, you  
25 can tell me that. But would the

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1 Proceedings  
2 analysis that she -- that Ms. Tshudy  
3 included in her paper and that we see  
4 also in Ms. Rogers' note, would that be  
5 so common in the community that it  
6 wouldn't be unusual?

7 PROFESSOR GOULD: Let me answer it  
8 this way. I am, you know, somewhat  
9 familiar with scholarly works in this  
10 area, though not an exhaustive way. It  
11 was surprising and new to me, but I did  
12 not go ahead and do any kind of  
13 exhaustive searching to see how that  
14 would come up. But I don't recognize it  
15 common. And, again, I didn't do any  
16 kind of exhaustive searching to see how  
17 that would come up.

18 UNKNOWN SPEAKER: Is the result  
19 that the court came to in Momena what  
20 was also relayed in the paper?  
21 Ms. Tshudy's paper focuses so much on  
22 the Momena case. Are her conclusions  
23 ones that were obvious from the court  
24 decision and Momena.

25 PROFESSOR GOULD: Once you read

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1 Proceedings  
2 the court decision of Momena -- and the  
3 court decision, this is the 2012 Momena  
4 case. There's another one. But in the  
5 2012 Momena case, the court decision  
6 was a majority decision, it was somewhat  
7 controversial, and there was a strong  
8 dissent. And so -- I'm sorry, I forget  
9 what the question was. Sorry.

10 UNKNOWN SPEAKER: Are the  
11 conclusions that the court came to the  
12 same as the analysis that Ms. Tshudy is  
13 indicating in her paper?

14 PROFESSOR GOULD: I believe she  
15 did a fair analysis in summary of the  
16 Momena decision.

17 UNKNOWN SPEAKER: I guess the  
18 point of that question is: Are those --  
19 is there something unique about  
20 Ms. Rogers' analysis and Ms. Tshudy's  
21 analysis that somebody else might not  
22 get from reading the Momena decision?

23 PROFESSOR GOULD: What was new to  
24 me was -- again, Momena was all about  
25 patents and the Safe Harbor versus

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2 infringement, nothing about trade  
3 secrets. What was unusual for me was  
4 using that as sort of the cornerstone to  
5 launch into a strategy of relying on  
6 trade secret protection over patents.  
7 That I hadn't seen or looked into.  
8 Again, we're using that Momena case to  
9 advocate the strategy. I didn't recall  
10 that one.

11 PROFESSOR BUTLER: Can I pursue  
12 that, but along a slightly different  
13 line. As the instructor who designed  
14 the course and had certain expectations  
15 about what general student work would  
16 produce from an assignment like this,  
17 would you say that the author's problem  
18 was a footnoting issue? Or that in  
19 addition to that, or in place of that,  
20 she drew something by way of  
21 intellectual framework from Rogers'  
22 piece. She drew more than just copying  
23 words.

24 Plagiarism -- to me, there's a  
25 difference between copying and

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 plagiarism. There's an overlap, of course, but copying is repeating verbatim what somebody else has written. Plagiarism, it seems to me, is also taking something more, intellectually, from the overall product. And how much is original and how much is not, would be the question.

PROFESSOR GOULD: Well, as you can see from the Turnitin program, a great deal of copying, for sure. What I also tried to do was point out key passages that matched up, often word-for-word, that were analytical in nature and were conclusory in nature and were unique to each paper, at least from what I knew.

And that's also, in the conclusion, was impressive to me that this was not just summarizing cases or quoting cases, but what I would have regarded as an original idea, certainly in Ms. Rogers' paper and I found that same idea in Ms. Tshudy's paper. If that answers --

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 PROFESSOR BUTLER: And in your opinion, did Ms. Tshudy develop the idea into something more than Ms. Rogers had or was it essentially the same thing?  
 PROFESSOR GOULD: To get into that detail, I think the main idea, again, focusing on the Momenta case to then advocate for relying on trade secret protection instead of patent protection in the area of testing for FDA -- and again, in the Rogers paper, she constantly talks about bioequivalency testing because that was the subject matter exactly the Momenta case.

And so if you get into subtle differences, I noted Ms. Tshudy, maybe every time, but I saw it, generally, she got rid of the word bioequivalency and just talked about test methods. And -- think about your question, is this a case where Ms. Tshudy was broadening this out beyond bioequivalency testing to other testing, so that may be a difference.

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 This was not, again, from my knowledge of the scholarly work in this area, again, a lot was focused on manufacturing processes and preparing these biomolecules. So focusing on testing as an advantageous way to use trade secrets was new to me. And then to try and parse out differences, Ms. Tshudy's papers, just by the language, didn't just narrow it to bioequivalency, but went, if I remember Ms. Tshudy's paper often talks about testing methods testing. Testing, not just bioequivalency. So there's a difference. We're broadening out.

PROFESSOR BUTLER: Okay. Thank you.

DEAN WILLIAMS: Only for Professor Gould, at this point.

[REDACTED]: What kind of student was Ms. Tshudy?

PROFESSOR GOULD: First of all, Ms. Tshudy was a remote student. So she -- I think, I mentioned it for

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 participation because she was only -- well, the IT group here at Dickinson said that they would not have remote students Zoom in to every single class, but they would allow it for two classes, one presentation. Each student, as a sort of midterm project, does a slide presentation of their own topic, of their own choice.

And then Ms. Tshudy also Zoomed into the class for the last class when she presented her brief summary of her paper. And I thought her slide presentation was very good. She got a very high grade, I think 19 and a half out of 20 points.

And then as part of being remote, without the ability to Zoom in to every class, I had spoken ahead of time to Dean Gaudion and worked out a way for Ms. Tshudy to submit short reflections each class. Not for every one, I excused her on one or two, and others, we sort of said, okay, of the remaining

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 2 12 classes, you can do 9 out of the 12  
 3 and skip 3. I forget the exact number.  
 4 So she didn't need to do a  
 5 reflection for every class. I would  
 6 guess, maybe, 4 or so. She didn't have  
 7 to. But I found the reflections  
 8 satisfactory, and she would get a  
 9 relatively high grade on just  
 10 participation.  
 11 So that should answer your  
 12 question.  
 13 [REDACTED]: Thank you.  
 14 [REDACTED]: I have a question.  
 15 PROFESSOR BUTLER: Please.  
 16 [REDACTED]: So you drew some  
 17 similarities, or you drew the exact  
 18 similarities between the papers pulling  
 19 on the phrases, devastating loss,  
 20 producers of lucrative goods, the weight  
 21 of the presumption of disclosure, as  
 22 well as, chilling participation. In  
 23 finding or coming to a conclusion that's  
 24 consistent with the Momena case, how  
 25 much variance could a student have with

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 2 those phrases?  
 3 PROFESSOR GOULD: I guess just  
 4 personally, I found them especially  
 5 unique. I see what you're saying. I  
 6 mean, showing effect is a phrase we use  
 7 in the law. Devastating -- sort of a  
 8 strong word, but -- I guess I can only  
 9 give you my -- what I took from it. I  
 10 found these, along with hungry eyes, as  
 11 being special, especially some of these  
 12 as unusual. It got my attention and  
 13 served for me as sort of a fingerprint.  
 14 That's my take on it.  
 15 [REDACTED]: And then my second  
 16 question. I just want to reiterate,  
 17 what made you curious to Google the  
 18 information?  
 19 I know we've heard that the  
 20 information -- or the concept, I should  
 21 say, was new to you, and so you were  
 22 curious about it. But we've also heard  
 23 information that it was presented to the  
 24 student at an earlier conference. And  
 25 so, I'm wondering was it because you're

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 2 curious about that? Was there something  
 3 else that made you want to look up to  
 4 see if the information was anywhere  
 5 else?  
 6 PROFESSOR GOULD: By chance of  
 7 it -- you said presented at another  
 8 conference?  
 9 [REDACTED]: In the student  
 10 conferences.  
 11 PROFESSOR GOULD: Oh, on the  
 12 phone.  
 13 [REDACTED]: Yes.  
 14 PROFESSOR GOULD: Oh. In the  
 15 conferences on the phone, I don't  
 16 remember the mention of the Momena  
 17 case, at all. I knew the Momena case,  
 18 the 2012, and there's another one later.  
 19 But it came as a surprise to me when I  
 20 saw the paper -- when I saw Ms. Tshudy's  
 21 paper, that was the first time I recall  
 22 anything from her about the Momena  
 23 case, not even in her in class  
 24 presentation, I think.  
 25 It wasn't mentioned, that's my

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 2 memory, but I guess you could check, but  
 3 that was new to me from her. And I knew  
 4 the Momena case, but what was it -- a  
 5 new thesis, from my view. It was also a  
 6 central thesis in the -- Ms. Rogers'  
 7 note, was using the Momena case as  
 8 the -- not the starting point, but a  
 9 cornerstone of the reason to advocate  
 10 for a strategy to actually, sort of,  
 11 affirmatively rely on trade secrets  
 12 rather than patents, that was something,  
 13 that strategy keyed off the Momena  
 14 decision, was something I didn't recall.  
 15 And I wanted to Google it and see  
 16 if others had that strategy, and --  
 17 based on the Momena case. And then, I  
 18 think I mentioned, one thing I was  
 19 wondering about -- I think you could  
 20 protect this information. I've done a  
 21 lot of litigation. I think you could  
 22 protect this kind of information to a  
 23 good extent with protective orders,  
 24 again, the Stream of Information Act  
 25 requests would be decent protection.

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But one thing that concerned me when I was reading that is, what would FDA do if FDA brought this test -- whether you're calling a bioequivalency test or some other test -- for FDA submission, if FDA loved this test and wanted everyone to use it, which can happen, that was one of my concerns that that would destroy that strategy. And so I wanted to see -- not only had anyone used Momenta to advocate the strategy, not just summarize Momenta, but to advocate the strategy.

And if they had -- had they discussed the risk to the trade secret of FDA using it and disclosing it and wanting everyone to do that. It's sort of hard to go back and remember your thinking, but I remember that it's like, wow, is anyone concerned? Because I'll also say in Ms. Rogers' note as well as in Ms. Tshud- -- now, Ms. Tshudy's paper, as long as you're doing this, didn't discuss much, as I recall about

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FDA use.

In fact, there's a whole large section in Ms. Rogers' note on FDA use and citing the Ruckle House decision, that was not in Ms. Tshudy's paper. And so in looking at Ms. Tshudy's paper and thinking about FDA use -- I think that explains that. That was part of my curiosity.

PROFESSOR BUTLER: [REDACTED]?

[REDACTED]: Just a few contextual questions. You mentioned that Ms. Tshudy's presentation didn't necessarily conform with the paper itself. Common among students, or is it generally a pretty strong correlation?

PROFESSOR GOULD: Oh, the presentation in class?

[REDACTED]: Yes.

PROFESSOR GOULD: Oh, that can vary. Yeah. And I'll also say Ms. Tshudy got full credit -- just four points -- got full credit for that short presentation. The presentation, I just

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feel is more for the students to share.

And to answer your question, some students will focus on a particular part of their paper, others will give them more complete review. It's just a matter of variety.

[REDACTED]: And forgive my ignorance, but I've not yet had to submit a paper in law school, but do you find it's fairly common to have the types of reactions you did to this paper to go and do a little research on top, or do you generally --

PROFESSOR GOULD: Oh, I generally do research. I can't speak for every professor. My view, especially in these papers, the students work so hard on these, and there's a lot of research, and it's a complex area. I don't just read the papers top to bottom -- how to explain it. I try to live the paper and live the topic. And so it's my standard practice, I do pull up citations. I don't know if other professors do to

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what extent. I do with students' papers, look at some of their citations, the overview articles, and then I will go into Google searching.

I find a lot of this very interesting too, so it's partly my own interest, but I do try and live their topic, if that makes sense.

[REDACTED]: It does. Thank you.

Last question, just clarifying, so it sounds like the two of you had probably four interactions, the two classes that she was able to Zoom in to and the two phone calls that you shared.

PROFESSOR GOULD: That sounds right. The two classes, we had two phone calls, and that was it. And again, reiterate, I didn't hear any concerns expressed or request for another phone call.

[REDACTED]: Thank you.

PROFESSOR BUTLER: Anybody else have questions? Ms. Williams -- Dean Williams.

22 (Pages 82 to 85)

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2 DEAN WILLIAMS: I just want to ask  
3 you one further question and that is:  
4 How -- in your experience, have you seen  
5 before students present the same  
6 analysis in the same order, using the  
7 same cases as a Law Review note?

8 PROFESSOR GOULD: I don't recall  
9 anything. I don't, specifically, recall  
10 anything, especially in a unique topic  
11 like this.

12 PROFESSOR BUTLER: Yes.

13 [REDACTED]: I know it was  
14 mentioned that there's a sample paper  
15 that was given to demonstrate structure  
16 that was desired for the paper. Did her  
17 paper follow that same structure?

18 PROFESSOR GOULD: I feel her paper  
19 complied. Again, the sample paper --  
20 and it's one another professor at  
21 Dickinson provided as an example they  
22 use. I think it's fair to say that the  
23 students in my classes also, two years  
24 ago, understood that I was very liberal,  
25 and I did not hold that against --

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2 Ms. Tshudy's paper, for instance, that  
3 they were end notes rather than  
4 footnotes. I'm pretty liberal on that,  
5 and that was not a problem in Ms.  
6 Tshudy's case.

7 [REDACTED]: Sorry, I just want to  
8 clarify one aspect of it. So whenever  
9 you all talk about structure, are you  
10 speaking just specifically about the  
11 footnotes or the way that the references  
12 are, or are you speaking in regard to  
13 how the paper should develop.

14 PROFESSOR GOULD: At first -- and  
15 now I see where you're going -- so  
16 there's nothing about the sort of  
17 pedagogical structure about the sample  
18 paper that students have to comply with.  
19 So that's first. And I think everyone  
20 understands that because I've got a lot  
21 of good papers with a lot of different  
22 structures. That's not a problem.

23 And what I was talking about here,  
24 in structure, is the substance of the  
25 structure. The idea of starting with

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2 the Momenta case and focusing on it, in  
3 my view -- and I know I mentioned Ms.  
4 Tshudy cited a couple of other cases  
5 that were not in the Rogers' note -- and  
6 then the structure of arguing or  
7 advocating off the meta paper to prefer  
8 trades -- to rely on trade secrets and  
9 not patents.

10 And then I talked about  
11 substantive structure. And then the  
12 second part in both papers to then look  
13 at the risks to that strategy, so I was  
14 talking about the substantive structure,  
15 not the formalistic structure, if that  
16 answers --

17 PROFESSOR BUTLER: Very good.  
18 Ms. Tshudy, if would you like now  
19 to make your presentation.

20 MS. TSHUDY: Yes, actually.

21 DEAN WILLIAMS: Professor Butler,  
22 would it be okay if we took a  
23 five-minute break right now.

24 PROFESSOR BUTLER: Yes.

25 DEAN WILLIAMS: And then we can

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2 come back for this testimony?

3 PROFESSOR BUTLER: Five minutes?

4 DEAN WILLIAMS: That'd be great.

5 Thank you.

6 PROFESSOR BUTLER: Strictly  
7 understood.

8 DEAN WILLIAMS: [REDACTED]

20 (Thereupon, a recess was taken,  
21 and then the proceedings continued as  
22 follows:)

23 PROFESSOR BUTLER: All right. We  
24 will reconvene.

25 Ms. Tshudy, the floor is yours.

23 (Pages 86 to 89)



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MS. TSHUDY: Okay. So just to start before I, like, get into what I had prepared, like, as a response, I actually found the hearing so far very enlightening. And I honestly had never assumed any ill will or mal-intent. But I really think that I'm going to be able to show that this is just, like, a complete misunderstanding, in a way.

I really would have hoped -- I guess I really would have hoped that more research would have been done, especially, you know, after having a short time, you know, at least just a little time, to discuss it with Dean Williams about how much of this is very generalized information. So I'm hoping I can show that to you -- but just to make sure that it doesn't necessarily come off or get interrupted.

As Professor Gould was going through particular phrases that he found were complete new and original ideas. I just went into Google and just typed in

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them, just to see the backing. And so the last one he went through was the viability trade secrets being a viable alternative to patents, for example. And I didn't want to necessarily take the time right now to hook up my computer, but if you read what I just get straight from Google, there is -- even from the beginning, an entire paper on trade secrets as a viable alternative for patent law.

And so I hope I'll go through everything, but I just wanted to give an example that if you really do take these phrases or, you know, things, like, borrow and stuff and actually like search, that I would actually, kind of, in part, suspect -- not necessarily suspect -- the note of, you know, pulling -- plagiarizing from other people's work. But at least I feel like from what I've even seen from hers, it kind of generalizes the same sort of resources that I was even using for this

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information, which I think is, kind of, really interesting.

DEAN WILLIAMS: Ms. Tshudy, we can certainly put your computer --

MS. TSHUDY: Well, I was going to go and just do my testimony.

DEAN WILLIAMS: Okay.

MS. TSHUDY: And then I can, like, show stuff too --

DEAN WILLIAMS: Sure.

MS. TSHUDY: -- as desired. I just don't want to bore you with just like a Word document, straight up.

First, I just wanted to give just my initial response explanation, because I'd rather prefer that, and then I can address things that were said, if that's okay with everyone. So I did put a quick note, just so that everyone understands, that I would have definitely preferred, you know, just to resolve this by discussion and agreement and everything. I was given a very short amount of time to decide and,

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again, making the agreement would have required me to say that I knowingly or intentionally plagiarized.

And as you'll see, that's the only reason why we won't come to agreement, because I think with being able to explain everything and tell them everything that happened and give them all these different papers that are incredibly similar that this would have been resolved just from discussion. But the timetable I was given was too short for me really to do that. So Dean Williams wanted an answer. And I said, well, I'd love to discuss, but ultimately if you need an answer, it's not something I can do.

But I'll just read my testimony for now. And the only reason I'm reading it is because there's a lot to grasp, so I just think it's easier if it's organized so I don't miss anything.

I really do appreciate having this opportunity. I've had many experiences

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where people in my life have even gone to the extent of committing suicide when they are faced with false accusations and weren't able to give their idea or have a court like this to reach out to, so I appreciate you taking the time to hear me, although I greatly regret having to make such a request.

My history has given me burden syndrome, which is something where -- sorry, I'm cutting out some -- where you literally will avoid burdening others with hearings such as this at all costs, except for the fact that I can't do it if it requires me to admit to something I haven't done. I've learned to accept punishment or loss of achievement as a result of imperfection -- or I have learned that sometimes agreeing to lose or settling is reasonable because of how much of a toll it can take, even just for the chance to win.

But I've also learned that there's nothing more important in this world

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than honesty. And as much as the stress of all the events that have occurred over this past year makes me want to simply accept punishment just to avoid this process, I cannot give in to the only thing that has sustained me through it all, which is my integrity.

And so I'm not afraid to fail, perhaps I once was, but that quickly ends when you suffer from a prolonged disease. For comparison, I've been treated -- I've had a debilitating illness for 20 of my 28 years. I've kind of learned that certain times you fall short, so I have no issue admitting when I'm at fault or when I'm in the wrong, and, again, that's never been a problem for me. And pride, for sure, is not a problem for me.

I am happy to admit that I failed to grasp the potentiality of my work to be considered plagiarized. I thought that the information that I'm going to show you was readily known and well

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known, but perhaps that comes at the toll of researching a topic so indepthly. And right now I might be kicking myself that I wrote a paper somewhat advocating for the same trade secrets that could be concealing the technology that could project my memories onto the big screen for you to see for yourself.

But I digress, this is such a painful thing to be accused of something that I even went so far as to use the money I had been given for Christmas presents to pay for a, like, sit-down with a polygraph examiner in eagerness for the chance to exonerate myself. But unfortunately, that wasn't able to be done this quickly. And there's indicators that polygraphs aren't -- I learned a lot about polygraphs, and I don't know if it would really fit this setting just because of how broad it is, but I would be happy to do it if you ever required it.

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Originally, I presented Professor Gould with two topics: The Right to Try legislation and something involving how lawyers should guide biotech startups and set them up to succeed. So it's more like IP protection and prevention of lawsuits. And that was on September 3. If you want me to go through the emails, I have all of them.

He responded for his concern that the second one, the trade secret protection, might be quickly moved towards a business school project. So that was just his initial, like, just watch to make sure that it's not business school. I have the emails, too, so if you need the exact wording, we can pull that up. And that was also the date where he explained that participation could be met through submissions of responses to each of the cases that we read.

So in response to my participation submission on October 12, which was

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2 after a painful gap because -- this  
3 isn't to elicit pity, but this is to  
4 kind of understand why it was difficult  
5 and there were some gaps of  
6 communication between us. I lost my  
7 mother this past semester and then --  
8 that was unexpected -- okay, sorry. And  
9 then two weeks after I lost both of my  
10 actual pets, one was killed instantly  
11 and the other I spent the rest of the  
12 semester searching for it.

13 So October 12 was four weeks after  
14 that and two weeks after the tragic  
15 incident and Professor Gould had been  
16 kind enough to grant me a little leeway,  
17 just like a little gap in communication.  
18 But then October 12 is when he notified  
19 me that he'd like to, now, get to -- get  
20 together and discuss the topic. And so  
21 I definitely appreciated just having  
22 that for me to gather myself.

23 And so he specified that the Right  
24 to Try -- well, originally I said Right  
25 to Try bill, and that made sense, he

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2 said would be better, like the  
3 presentation and sort of recommended  
4 that trade secrets would probably be  
5 better as the actual research paper. I  
6 later found out that you can -- Right to  
7 Try legislation is even a bigger topic,  
8 but to me it made complete sense, what  
9 he admitted -- so I'll explain the  
10 importance of that later.

11 And then on Friday, October 15th,  
12 we had a phone call and he sent me  
13 articles in response to our short talk.  
14 And originally when the accusation came,  
15 I actually thought that the note was  
16 part of these, like one of -- the part  
17 of the articles that he sent me in  
18 response to just me giving him this  
19 topic. Looking back, I realized that it  
20 was not, but I knew that was something  
21 that had come up earlier. But obviously  
22 to me it was like -- I knew of the note,  
23 but it wasn't even something that I  
24 would use because it was something  
25 literally sent to me by my professor,

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2 initially.  
3 Now, I've corrected that in my  
4 knowledge, but to me I thought that it  
5 was originally sent from him. And then  
6 it was only with reminders of looking  
7 into this that I realized that that was  
8 not the case.

9 On October 20th, I believe, we met  
10 again and Professor Gould sent me a  
11 responsive email. He said, With  
12 specific regard to your research plan,  
13 you have a good deal of flexibility as  
14 these plans are ungraded and mainly for  
15 you to present to me to present to me  
16 for the purpose of soliciting my input  
17 on how your research project is going.  
18 Typically research plans are two or  
19 three pages and provide a rough initial  
20 outline of the eventual paper as well as  
21 identification of issues, research  
22 strategies and some important  
23 references, cases, articles identified  
24 thus far. You can submit your research  
25 plan as late as October 25, without

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2 penalty.

3 And so this goes to -- so then the  
4 next time that we really discussed --  
5 then was the actual outline, which is  
6 what he was just describing. And so the  
7 outline, I believe, was provided into  
8 evidence. And it is pretty  
9 helter-skelter, not very well-developed.  
10 But again, based on what he described me  
11 he wanted, it applied. And if you look  
12 at the outline, you can see that I  
13 copied and pasted different sources  
14 beneath it, for two reasons, one was  
15 because he had mentioned that you can  
16 include different cases and stuff if you  
17 think it might pertain later.

18 And the other thing was that I was  
19 currently living the semester out of my  
20 car because I was still searching for my  
21 other pet, so I only had periodic access  
22 to WiFi. So I've never just copied and  
23 pasted sources straight to an outline.  
24 But given his comment above, and given  
25 the idea that I didn't always have or



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2 rarely had WiFi or Internet connection,  
3 it was literally there in case what we  
4 went over on the outline made it worth  
5 reading.

6 So at that point -- at that point  
7 as you'll actually learn, I never  
8 actually read through the entirety of  
9 the note beyond reading, maybe, the  
10 introduction and I don't even think I  
11 looked at the structure necessarily.  
12 And then I did look at the resources,  
13 but I'll explain that later. But I  
14 copied it and other resources as  
15 potential aids so that I could read them  
16 if I got around to it since the topic  
17 was really broad.

18 I actually mentioned this to  
19 Professor Gould, that I was more  
20 interested in a trade secret versus  
21 patent debacle. But during this meeting  
22 and the notes that you can see from the  
23 outline, he really seemed to emphasize  
24 his desire to hear about these emerging  
25 issues in trade secret litigation coming

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2 from discovery. And I think that's  
3 probably one of the reasons that I got  
4 such a good grade on my presentation was  
5 because I actually concentrated on what  
6 he really liked. So I feel like -- I  
7 think other students generally do that  
8 if you hear a professor really push for  
9 something.

10 So I just wanted to repeat that I  
11 did not read more than, maybe, the first  
12 paragraph of the note before copying --  
13 yeah, so I discovered the note right  
14 before a meeting and that's why it is on  
15 my outline. So I literally did not read  
16 more than the first paragraph of the  
17 note before copying it over and I never  
18 actually read through the thing or read  
19 even, I would say, significant amount of  
20 the entire note.

21 But I did know of the note. And  
22 again, I copied this over directly to  
23 the outline that I shared with Professor  
24 Gould, so he knew from the beginning  
25 that I knew of this note. I copied with

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2 other resources as well, but it was  
3 located in the bottom of the outline.  
4 And this was mentioned as well by Dean  
5 Williams that it was literally attached  
6 at the bottom of the outline with other  
7 excerpts and ideas that I thought that I  
8 could possibly mention to Professor  
9 Gould later.

10 And this was all based on the fact  
11 that his description of what the outline  
12 could be mentioned that you can include  
13 that stuff, because obviously I wouldn't  
14 to try to include that and pretend that  
15 it's part of my outline at all. But I  
16 think it was pretty obvious because  
17 there's like a straight research paper.

18 At most, even when comparing the  
19 two, after hearing about the allegation,  
20 I wanted to sort of wait to really look  
21 in depth because I was still  
22 contemplating, you know, still looking  
23 into the polygraph option because I  
24 thought that would be easier and I  
25 didn't want to make myself remember.

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2 With polygraph, you can't make yourself  
3 remember iffy so I can't say that I've  
4 never read it if I've read it in  
5 reference to an allegation, if that  
6 makes sense. So that's the only reason  
7 that I was kind of hesitating like going  
8 through each exact detail because I knew  
9 that I could.

10 And so as I said, the note was at  
11 the bottom of my outline, even though I  
12 did not know that before. And I --  
13 Professor Gould and I never actually  
14 went below my outline for discussion.  
15 So we didn't talk about it. But it was  
16 there if he wanted to and if you wanted  
17 to review it at any point because it was  
18 there with a bunch of other things.

19 We mostly concentrated on the  
20 actual outline that I presented, which  
21 was like Roman numerals and everything.  
22 So I think, he kind of just dismissed  
23 the sources, but they were there and,  
24 like I said from the beginning, open for  
25 him to see if he desired to look.

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So this meeting did change my approach drastically. So even with this initial outline that even had that copied at the bottom, I actually decided to start a completely new outline, so -- I didn't delete my original outline. But, I can show you, I have a second outline that I did just because we made such drastic changes to what I was going to talk about. So even though I had her note on that outline, I never really got the chance to read it and look into it because I started a separate one.

And so the next step that I went into was scouring for resources. And in first year legal analysis and writing, we faced this battle of when to cite primary or secondary resources. It resulted in citing secondary, if you are including what they specifically pulled from the case or the analysis, that is not like a general headnote or a common quote or if you only had it -- or heard of it because of their paper. But if

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you are just using them to get general background information and find sources that could be primary sources that could be pertinent to the area looking at, that citation isn't required.

So knowing we had similar aspects, I would have wanted to include the note in my resources -- in my resources just to cover my bases even though I never actually read it and because, as you'll hear, the one thing I do admit to using or harnessing from secondary sources is their list of resources.

But again, I did this with multitudes of papers. It's just a good way to get primary sources, which I was struggling with at the beginning because I didn't want to make the second half of my paper be too business minded like he had warned me about, so I needed resources that I knew were, like, at least generally biotech and pharmaceutical related. And so that is probably a reason that some of the

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resources come -- are similar.

So I had asked him, on that same date, if we're supposed to follow the sample paper. And on the sample paper it uses subscripts so you can use footnotes and he gave that as an option. And so, again, it wasn't a requirement, it was an option for background data. But he didn't want any of our 20 pages to be committed -- any of our 20 required pages to be committed to this background data, so it was just whether we wanted to include it as an option, that was allowed.

But the actual structure of the sample paper was that you use subscripts for citations. And if you look through my paper, I have citations for almost -- nearly every single sentence, so there wasn't any -- I had even looked and discussed with friends and people about if there was anything in my paper that would be specific to background articles that I had read and we couldn't really

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find any area that could -- we didn't find anything that was unique to them or any area that we could subscript it to being specifically found from them.

Especially because, again, I hadn't read this paper. I was just trying to figure out a way to work it into the subscript resourcing that I had never done before. Because normally I just do resources inputted into the paper, but then you can also have an additional resource list that doesn't tie to the subscripts.

So I had asked him specifically if we're supposed to copy the structure of the sample paper and include in our resources things that could be directly tied into or at least subscripted to like a direct sentence in our document instead of just resources that, you know, generally have similarities. And so he responded to follow the sample. And this was because of the multitude of resources that I connected -- that I

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<p style="text-align: right;">Page 110</p> <p>1 Proceedings</p> <p>2 connected with and can connect to any</p> <p>3 part of my paper, but particularly the</p> <p>4 second half.</p> <p>5 At this point I had used --</p> <p>6 surprisingly used Google so much to</p> <p>7 determine the biggest issues and general</p> <p>8 approaches to them that, surprisingly,</p> <p>9 ads -- like, advertisements for firms</p> <p>10 were continuously popping up, where each</p> <p>11 law firm went through the same main</p> <p>12 issues in the same order and in the same</p> <p>13 way.</p> <p>14 The federal roles of Civil</p> <p>15 procedure 26 and 45, for example, were</p> <p>16 written about by so many of these</p> <p>17 companies whenever it came to those same</p> <p>18 orders. The only difference with how</p> <p>19 these were portrayed was the cases</p> <p>20 between all of those, so the order was</p> <p>21 the complete same, the only difference</p> <p>22 would be in whichever case they chose to</p> <p>23 use.</p> <p>24 And again, I chose biotech and</p> <p>25 pharmaceutical cases to make sure it</p>	<p style="text-align: right;">Page 111</p> <p>1 Proceedings</p> <p>2 wasn't like a business paper. Which</p> <p>3 means that my cases coincided with the</p> <p>4 cases shown in the note, but that was</p> <p>5 also not unique. I can also find papers</p> <p>6 that coincide some of the same cases to</p> <p>7 make the same conclusions in other</p> <p>8 people's papers as well.</p> <p>9 So that's why I tend to, if I am</p> <p>10 going to -- if I do use secondary</p> <p>11 sources for resources, I tend to try not</p> <p>12 to read the paper so that my analysis</p> <p>13 can be apart from theirs. That's why,</p> <p>14 you know, just to be safe, I just don't</p> <p>15 like to even conflate the two.</p> <p>16 So one such person would be my</p> <p>17 witness who was able to see my</p> <p>18 frustrations. And I literally would go</p> <p>19 through and show, like, hey -- I'd get a</p> <p>20 lot of opinions. The problem with being</p> <p>21 a remote asynchronous person means that</p> <p>22 I couldn't get opinions of school</p> <p>23 officials because I wasn't on campus.</p> <p>24 So I have a multitude of people that I</p> <p>25 discuss this with and ask their opinions</p>
<p style="text-align: right;">Page 112</p> <p>1 Proceedings</p> <p>2 of -- which is also allowable as seen in</p> <p>3 the syllabus. If you saw that</p> <p>4 distinction, we're allowed to, kind of,</p> <p>5 like, discuss things like this -- just</p> <p>6 to make sure that I wasn't over assuming</p> <p>7 the generalizations that were given to</p> <p>8 me.</p> <p>9 So I'd show people, I'd go through</p> <p>10 like five or six or eight different</p> <p>11 papers that were organized in the same</p> <p>12 way and pretty much had the same things,</p> <p>13 just different cases and they were like,</p> <p>14 yeah, that seems like generalized</p> <p>15 information for the area.</p> <p>16 And so I did bring a witness and</p> <p>17 that's one of the things that they can</p> <p>18 attest to. As I said, I asked opinions</p> <p>19 of others regarding this issue and</p> <p>20 others when it came to citations and</p> <p>21 they felt that the precautions I took</p> <p>22 would definitely be enough when looking</p> <p>23 at the multitude of articles that</p> <p>24 conveyed these exact same opinions and</p> <p>25 conclusions and agreed that it must be</p>	<p style="text-align: right;">Page 113</p> <p>1 Proceedings</p> <p>2 generalized knowledge and not original</p> <p>3 ideas.</p> <p>4 I honestly thought that I would</p> <p>5 get a bad grade because even though I</p> <p>6 used biotech and pharma sources, my</p> <p>7 research revealed that even though this</p> <p>8 topic appears emerging, it is widely</p> <p>9 overstudied now and that Professor Gould</p> <p>10 would think that I was just adding it to</p> <p>11 meet the minimum pages required.</p> <p>12 The only reason that this note</p> <p>13 would be any closer, as I already</p> <p>14 mentioned, I did use some sources that I</p> <p>15 took from the bottom of the page. Again</p> <p>16 not reading any of its analysis of it.</p> <p>17 But this was all added to one big</p> <p>18 resource document that I compile and</p> <p>19 then I go through each case</p> <p>20 individually. And then I just delete</p> <p>21 resources if I find they don't pertain</p> <p>22 to what I want to write about. So it's,</p> <p>23 like, just a different organization,</p> <p>24 and, normally, it's very effective at</p> <p>25 preventing this from happening, or it</p>

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2 always was effective from preventing  
3 this from happening because, normally,  
4 you'd throw out a bunch of cases that,  
5 you know, don't really tie in.

6 I even mentioned this in my emails  
7 to Professor Gould that I do use this  
8 resource list or use secondary sources  
9 and background info to gain resources  
10 pertinent to this. And I admit that I  
11 found a lot of incredible decisions, and  
12 even mentioned it in my class  
13 presentation of my paper, that were  
14 astonishing but weren't biotech and  
15 pharma context, so I said I would only  
16 include them if I found out that I did  
17 not have space. But in avoiding the  
18 paper being too general and business  
19 related, I knew that the only chance for  
20 Professor Gould not flagging it as a  
21 business paper was to make sure that I  
22 used those biotech and pharma cases that  
23 I found.

24 When I created the resource list,  
25 I removed information designating where

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2 I got them, but, again, that's because I  
3 went through each individual case and  
4 assessed them individually. And these  
5 same cases, if you go to them, you can  
6 literally see them cited in a multitude  
7 of secondary sources and multiple people  
8 are making the same exact conclusions  
9 from them, which I didn't necessarily  
10 know. But in general, whenever I was  
11 reading in background, trying to decide  
12 what to do my paper on, that's just kind  
13 of the info that really gives you what  
14 to write about.

15 So it didn't necessarily surprise  
16 me that our papers were similar, but I  
17 still retain that there are documents  
18 out there that are as similar just in  
19 different ways as her note. In fact,  
20 Dean Williams, I think, or Professor  
21 Gould mentioned that when I was  
22 originally contacted, I thought it was  
23 regarding the fact that I had included  
24 my response and analysis from my  
25 participation submission, but explained

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2 that this was a backup in case I had  
3 technical difficulties meeting my  
4 participation requirements that day in  
5 class.

6 So the actual analysis that I had  
7 sent to Professor Gould was never used  
8 for class credit because I was able to  
9 participate in person then because we  
10 didn't have technical issues. So I  
11 didn't think that it was an issue of,  
12 like, duplicating my submissions. I  
13 also explained that the first half of my  
14 paper is, in large part, what we  
15 discussed in class, and the second half  
16 of my paper is so widely known and  
17 accepted that it risked a really  
18 horrible grade by Professor Gould for  
19 being too generic.

20 Dean Williams continued to  
21 reiterate that this is a very serious  
22 thing and I explained that I completely  
23 agree and that I was simply confident  
24 that an explanation and ability to  
25 discuss would set the record straight.

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2 To be honest, the initial fear and dread  
3 in response to a false accusation of  
4 plagiarism had already been used up  
5 earlier in the semester when I wrote a  
6 hypo for Professor Prince that was as  
7 unique as my best friend who is a  
8 falconer and the partnership trouble she  
9 was going through trying to protect her  
10 new wildlife education business, which  
11 was so completely unique in every way.

12 But I still freaked out just at  
13 the fact that I didn't know how to prove  
14 my innocence beyond knowing my  
15 innocence. So I explained everything I  
16 did, offered up my computer history for  
17 her to have IT look at it, and sent her  
18 pictures and info on my friend to assure  
19 her I was telling the truth. So  
20 fortunately, crisis was averted. But  
21 that should just go to show that this is  
22 like what's dreaded and -- by any  
23 student I would feel -- but particularly  
24 would be the exact worst thing for me to  
25 hear.

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When I went to gather evidence, I sent Dean Williams, I think, 33 articles that I found within minutes or an hour that had very similar subject matter and very comparable sections, as mentioned, regarding the organization of my paper, particularly the second half that they keep mentioning, that the papers track on the same organization. There, again, is a multitude, not even a comprehensible number of articles and advertisements and papers that use the exact same structure for going through the risks of litigation because it's so written about. So my structure was literally just based on the fact that they all be structured the same.

And all I would do is I'd actually eliminate, like, any ones that were particularly unique because I wanted to at least make sure that I had the main things covered. And the unfortunate thing -- and also another reason why I have a witness -- is that when it came

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to the actual firm advertisements where they had specific articles articulating how they would protect biotech IP from disclosure through litigation -- it was like a bunch of them -- I didn't realize that they were advertising to me because I had looked so extensively for this on my computer, so I didn't realize how important the cookies were.

And so before I had known that this was even going to be a thing and as a person who's particularly paranoid and has never actually cleared her history or cleared her cookies before, I was actually required to do so in order to access my book list to order my books for this semester. So he specifically helped me with that because I was, like, is there any way I hate clearing my history, I do not want to do this, and that we literally could not access my book list.

And again, I didn't know at the time that this was even a thing. This

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is just how paranoid I am. I didn't know at the time that this would affect it. But we ended up that was literally the only way to resolve it so that I could access my book list and order my books.

And then it was later, a week later, that Dean Williams contacted me. And so I didn't realize that all those cookies from me searching for things over and over throughout the semester are exactly what led to the computer thinking that I was in dire need of a firm to represent me in a trade secrecy case and that's why there are endless amounts of ads from firms where they're all going through these same risks of litigation and explaining their approach to defending against them and, you know. And again, they're all exactly the same for the most part.

So to me it was generalized information and I didn't look at a single one to get this. So I can still

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find sections that duplicate almost everything in my paper. Not that I took anything from these, it's literally just from straight searches through Google, Lexus or West Law of like -- any section in my paper you can find duplicates of stuff.

But some of them are in incredible numbers. A number of things that I read that I couldn't really cite especially based on Professor Gould's desired format because they were too numerous and didn't reference -- there weren't any original references because, you know, they were throughout just considered general knowledge. And I did not use a single paper, side by side or indepthly -- I don't even think that I used resources within the same week or month as writing my paper, if I'm being completely honest.

I just, lastly, want to talk about my motive. You may not know this but this semester has sort of been a